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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/524,100

09/02/2005

Steven W Ramirez

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EXAMINER

NGUYEN, TRINH T

ART UNIT

PAPER NUMBER

3644

MAIL DATE

DELIVERY MODE

06/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,100	<b>Applicant(s)</b> RAMIREZ, STEVEN W	
	<b>Examiner</b> Trinh T. Nguyen	<b>Art Unit</b> 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Election dated 4/30/08.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 3,5-10,12 and 17-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,11 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/1/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Species 8 as directed to claims 1,2,4,11, and 13-16 in the reply filed on 4/30/08 is acknowledged.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,4,11 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US 5682648).

For claim 1, Miller teaches a decorative display apparatus for displaying at least one of culinary, horticultural and floral items 10 comprising: a support 12 for supporting the at least one of culinary, horticultural and floral items; and an interface 20 cooperating with the support, the interface having magnetic properties and being constructed and arranged to mount the support to a surface that has one of magnetic properties and non-magnetic properties.

For claim 2 Miller teaches the interface is removably attached to the support (see Figure 3A).

For claim 4, Miller teaches wherein the interface comprises a magnet 20 attached to the support and constructed and arranged to mount the support to a surface that has magnetic properties.

For claim 11, Miller teaches the magnet 20 is substantially hidden from sight (note that clothing 30 covers magnet 20 from sight).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Abraham (US 3735447).

For claim 13, as described above, Miller teaches all the claimed invention except for the support comprises an elongate sculpting wire having a first proximal end that is proximate the interface, a second distal end and a length therebetween, the wire being adapted to be formed and reformed by a user into any desired shape, the wire being adapted to support the at least one of culinary, horticultural and floral items in any desired orientation and at any position on the wire.

Abraham teaches a similar decorative display apparatus as that of Miller wherein Abraham's apparatus includes a support 10 comprises an elongate sculpting wire 32 having a first proximal end that is proximate the interface 12, a second distal end and a length therebetween (it is inherently that wire 32 has two ends (one near reference no. 14 and the other near reference no. 10) and a length therebetween), the wire being adapted to be formed and reformed by a user into any desired shape, the wire being adapted to support the at least one of culinary, horticultural and floral items 30,14 in any

desired orientation and at any position on the wire (see Figure 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the apparatus of Miller so as to include a support having an elongate sculpting wire (in another words, replace the floral holding means<sup>14A</sup> of Miller with the floral holding means 32 of Abraham), in a similar manner as taught in Abraham, since to do so would merely replace one old and well known floral holding means with another art equivalent old and well known floral holding means for supporting/holding a floral item thereon.

For claim 14, Miller teaches most of the claimed invention except for the use of a specific material such as aluminum for the wire. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to select such a material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

For claim 15, Miller as modified by Abraham further teach a portion of the wire 32 proximate the second distal end is adapted to support the at least one of culinary, horticultural and floral items 30,14 (it is inherently that wire 32 has two ends, one near reference no. 14 and the other near reference no. 10, wherein both ends support a floral items).

For claim 16, Miller as modified by Abraham further teach a portion of the wire 32 is constructed and arranged to be wrapped around the at least one of culinary, horticultural and floral items 30,14 (see Figure 1).

***Information Disclosure Statement***

6. The information disclosure statement filed 4/1/05 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trinh T. Nguyen whose telephone number is (571) 272-6906. The examiner can normally be reached on M-F (9:30 A.M to 6:00 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on (571) 272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Trinh T Nguyen/  
Primary Examiner, Art Unit 3644  
6/5/08